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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

2007 DE 10 PM : 06

SAMUEL J. SMOLEN, JR., 85A4082,

U.S. DISTRICT COURT
WEEKLY JOURNAL

Plaintiff,

-v-

DECISION AND ORDER
04-CV-6042CJS

C.O. J. LANIER, C.O. J. BRAUER
C.O. C. WHITE-SHELTON, C.O. M. BISHOP,
C.O. R. BROOKS, C.O. E. PREFONTAINE,
SERGEANT ZYDEL
and NURSE C. JORDAN, R.N.,

Defendants.

Plaintiff has a *pro se* action under 42 U.S.C. § 1983 and has requested appointment of counsel pursuant to 28 U.S.C. § 1915(e)(1). This Court is required to see that all litigants receive proper representation of counsel under the criteria set forth in *Cooper v. A. Sargent Co.*, 877 F.2d 170 (2d Cir. 1989), and *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986). In addition, courts have the inherent authority to assign counsel to represent private indigent litigants. See *In re Smiley*, 36 N.Y.2d 433, 438 (1975).

More importantly, each lawyer — especially those who are admitted to practice in federal court and who therefore are in a position to reap the benefits of such practice — has an ethical obligation under the Code of Professional Responsibility to provide *pro bono* services for the poor. New York Code of Professional Responsibility, Canon 2, EC 2-16; EC 2-25. "Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged." EC 2-25. In addition, Rule 83.1(g) of the Local Rules of Civil Procedure provides as follows:

Every member of the bar of this Court shall be available upon the Court's request for appointment to represent or assist in the representation of indigent parties. Appointments under this rule shall be made in a manner such that no attorney shall be requested to accept more than one appointment during any twelve month period.

It is in this spirit that the Court assigns Scott Rogoff, Esq. of Hiscock & Barclay, LLP 2000 HSBC Plaza, 100 Chestnut Street, Rochester, New York 14604-2404 *pro bono*, to faithfully and diligently represent plaintiff in this case.

The Clerk of the Court is directed to copy the file in this matter and send it to Scott Rogoff, together with a copy of this order and the Guidelines Governing Reimbursement from the District Court Fund of Expenses Incurred by Court Appointed Counsel.¹ Plaintiff's attorney is requested to make every effort to contact Mr. Smolen as soon as practicable and directed to contact the Court by January 21, 2008 to request a date for a status conference to discuss further proceedings in the case.

SO ORDERED.

Dated: Dec. 17, 2007
Rochester, New York

Charles J. Siragusa

CHARLES J. SIRAGUSA
United States District Judge

¹This information and the forms are also available on the Court's web site at the Attorney Information link from the home page located at: <http://www.nywd.uscourts.gov/document/fundreimbvoweb.pdf>.